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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 23-MJ-71263
)	
Plaintiff,)	UNITED STATES' MEMORANDUM OF POINTS
)	AND AUTHORITIES IN SUPPORT OF MOTION
v.)	FOR PRETRIAL DETENTION
)	
RAY GILBERT,)	Date: August 31, 2023 (Detention Hearing)
)	Time: 10:30 a.m.
Defendant.)	Court: Honorable Donna M. Ryu

Defendant Ray Gilbert is a twice-convicted felon and associate of the Case criminal street gang in Oakland who is presently charged with Felon in Possession of a Firearm and Ammunition. Since being released from state prison on post-release community supervision, he has engaged in a relentless campaign of gun possession and criminal conduct, as proven by both police reports and his own Instagram posts. He has also emerged as a suspect in numerous larcenies, including a May 2023 follow-home robbery and a March 2023 organized retail theft. The fact that all of this has occurred while on a version of the release he now seeks shows that there are no conditions that can adequately mitigate Gilbert's danger to the public or his risk of flight. He should be detained pending trial.

BACKGROUND

I. OFFENSE CONDUCT

A. A Loaded Glock Firearm Was Found in Gilbert's Bedroom During a Warranted Search on August 16, 2023

On August 11, 2023, this Court authorized a federal search warrant for Gilbert's residence located at 2364 East 16th Street in Oakland. On August 16, ATF and local law enforcement executed the warrant. During a search of Gilbert's bedroom—as confirmed by indicia in his name, his clothing, and his presence right outside the room—agents recovered a Glock model 22 .40 caliber pistol, loaded with 18 rounds of .40 caliber ammunition inside a 22-round magazine. The firearm was found underneath Gilbert's bed, consistent with it having been tossed quickly underneath upon law enforcement's arrival.



B. Gilbert's Relentless Possession of Firearms Before the Charged Incident

Gilbert's possession of the charged Glock was no one-off. Rather, a review of his Instagram account ("stainshit_3k0") pursuant to a federal search warrant revealed a steady stream of posts of Gilbert engaging in Case-related gang activity and firearm possession.¹

For example, on June 13, 2023, Gilbert posted the photograph below of himself exhibiting a disrespectful gang sign towards the rival "FE" gang. Gilbert is making an "FE" symbol with his right hand and flashing his middle finger with his left hand, to signify "F*ck FE." Inside his front sweatshirt, the outline of what appears to be a full-sized Glock pistol can be seen.

¹ Notably, the "3k0" suffix in Gilbert's Instagram handle is a common suffix for Case gang members. The "3" is a reference to rival gang "ENT" and the "k" stands for "killer," so that "3k" signifies "ENT killer." The number "30" honors a Case gang member who was killed.



On August 1, 2023, Gilbert posted an Instagram “Live” video to his account, a screenshot of which is shown below. Gilbert is holding a full-sized Glock pistol, which appears to match the charged firearm found two weeks later under his bed.



The next day, August 2, 2023, Gilbert posted the photograph below at left of himself with what appears to be the pistol grip and magazine from a semi-automatic pistol sticking out of his front right pants pocket. In another Instagram Live video that was posted by Gilbert to his account (below at right), he is holding three semi-automatic pistols.



II. CRIMINAL HISTORY & CHARACTERISTICS

At the time of his gun possession in August 2023, Gilbert had been convicted of two prior felony offenses: unlawful firearm possession and recklessly evading police. In fact, he was on post-release community supervision (a form of parole in California) at the time of the incident and at the time that he posted all of the photos above. Gilbert also has a juvenile adjudication for robbery and prior arrests for carjacking and robbery.

1 In addition to these crimes of conviction, Gilbert is suspected of being part of a Case gang
2 robbery crew. For example, on May 23, 2023, the Fremont Police Department received a report of a
3 suspicious vehicle and suspects “casing” the parking lot of a Dollar Tree store in Fremont. The vehicle
4 was described as a 2005 gray 4-door Toyota with tinted windows, later identified on surveillance
5 footage as having California license plate number 7EDE909. As officers responded to the area, the
6 reporting party advised that the vehicle had departed the lot.

7 Minutes later, Fremont PD received a call for a robbery nearby. The victim advised that she had
8 been followed home from the bank and robbed. The victim’s description of the robbery suspect was
9 similar to that reported at the Dollar Tree. The victim advised that she had been at Wells Fargo Bank,
10 traveled to the Dollar Tree, and then returned home where she parked in the garage. The victim began
11 exiting her vehicle when the suspect broke her passenger window, reached in, and grabbed the victim’s
12 purse and phone. The suspect then ran back to a vehicle on the street and fled the area.

13 Camera footage was located showing the suspect vehicle (a Toyota Camry with California
14 license plate number 7EDE909) following the victim home and later fleeing the area after the robbery.
15 Later that same day, officers located that Toyota Camry in the 24-Hour Fitness parking lot in Fremont.
16 Surveillance units watched the vehicle until they observed five male subjects walk out of the 24-Hour
17 Fitness and towards the Toyota. Four of the subjects entered the Toyota while the fifth stayed outside
18 the vehicle. A high-risk felony stop was conducted by officers, who detained the subjects. Four Case
19 gang members and associates were detained, in addition to Gilbert, who was seated in the backseat of
20 the car.

21 A field show-up was done with the victim who, when showed the Toyota Camry, stated “Yea it
22 started with a 7 and was greenish black. Yes it looked like this. That’s the car.” The victim was also
23 shown the suspects, and in relation to one (not Gilbert), she said: “It could be him, he (suspect) was tall,
24 and that guy was tall, same physique but I did not see the face.”

25 A search of the Toyota Camry revealed three firearms, assorted ammunition, and evidence of the
26 robbery. Inside a black Coach bag in the back seat (which contained indicia of Gilbert), officers
27 recovered a Glock model 19 9mm caliber pistol with a loaded 31-round magazine insert. Officers also
28 recovered a Springfield Armory XD .40 caliber pistol and another Glock model 19 9mm caliber pistol

1 with a loaded 24-round magazine underneath the driver's seat. Indicia for the robbery victim was found
2 on the back seat of the vehicle.

3 Officers were contacted by Gilbert's mother who inquired about his property. She asked about a
4 gold chain with a dragon on it and identified it as Gilbert's. Officers noted that this necklace was
5 recovered inside the Coach backpack containing one of the Glock pistols. Officers also found a receipt
6 with Gilbert's phone number inside the Coach backpack.

7 Members of that same robbery are believed to have committed a follow-home robbery of a
8 victim who left the Livermore casino in March 2023, as well as an organized retail theft of \$10,000
9 worth of merchandise from the Gap the same month. In the Spring of 2023 (approximately 15 weeks
10 before the August 2023 search) and around the time of those incidents, Gilbert posted the below photo to
11 his Instagram account, holding a large amount of cash with a firearm with an extended magazine on the
12 counter.



26 Finally, Gilbert and another Case associate led Oakland police officers on a vehicle chase on
27 August 2, 2023, that began five blocks from the residence searched in the charged incident. When
28 officers recovered the vehicle, they found two loaded Glock firearms in the car.

ARGUMENT

I. LEGAL STANDARDS

The Bail Reform Act of 1984 permits pretrial detention of a defendant without bail where “no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(e)(1). Detention is appropriate where a defendant is either a danger to the community or a flight risk; it is not necessary to prove both. *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985). A finding that a defendant is a danger to the community must be supported by clear and convincing evidence. 18 U.S.C. § 3142(f)(2)(B). A finding that a defendant is a flight risk need only be supported by a preponderance of the evidence. *Motamedi*, 767 F.2d at 1406.

“[T]he Bail Reform Act mandates an [1] individualized evaluation [2] guided by the factors articulated in § 3142(g).” *See United States v. Diaz-Hernandez*, 943 F.3d 1196, 1199 (9th Cir. 2019). The four factors to be considered under § 3142(g) are: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant, including the defendant’s character, physical and mental condition, family and community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings, as well as whether the crime was committed while the defendant was on probation or parole; and (4) the nature and seriousness of the danger to any person or to the community that would be posed by the defendant’s release. 18 U.S.C. § 3142(g); *United States v. Winsor*, 785 F.2d 755, 757 (9th Cir. 1986).

II. GILBERT’S DANGER TO THE COMMUNITY & RISK OF NON-APPEARANCE

Consideration of the § 3142(g) factors demonstrates that detention is appropriate in this case based on Gilbert’s danger to the community and his risk of non-appearance.

First, the offense conduct is very serious. Despite his felony prohibition and current PRCS restrictions, Gilbert continues to arm himself with loaded firearms, with multiple examples in recent months. In the charged incident, he possessed a Glock firearm with 18 rounds in an extended magazine, hidden under his bed. This occurred in a house where he has been living and which has been associated with the Case gang, firearms, drugs, and illegal gambling in recent operations. All of this occurred

1 while Gilbert was on post-release community supervision, showing that he is not amenable to
2 supervision. *See* § 3142(g)(1).

3 Gilbert's history and characteristics likewise support detention. He is a Case gang associate,
4 with two prior felony convictions for weapons and evasion offenses. He has repeatedly armed himself
5 with weapons since being released from state prison and glamorizes both the gun and gang lifestyle on
6 social media. He also appears to be involved in several recent larcenies, ranging from follow-home
7 robberies to organized retail theft. Gilbert poses a significant and ongoing danger to the public and
8 should be detained. *See* § 3142(g)(4).

9 The evidence against Gilbert is also quite strong. The gun was found under his bed in a room
10 that only he occupied and which contained his belongings. Gilbert was seen just outside the door to that
11 bedroom when agents arrived, and he also posted numerous photos with matching Glockes in the weeks
12 leading up to the search. The strength of the evidence supports detention. *See* § 3142(g)(2).

13 Finally, Gilbert poses a significant flight risk. He has a prior felony conviction for recklessly
14 evading police and fled from police when spotted near his residence two weeks before his arrest—an
15 incident in which two more firearms were recovered. This track record, combined with his federal
16 exposure and incentive to abscond, demonstrates by a preponderance of the evidence that he is a flight
17 risk.

18 CONCLUSION

19 Given the lack of conditions that can reasonably assure the safety of the community, or ensure
20 Gilbert's appearance at future court hearings, the government respectfully requests that he be detained
21 pending trial.

23 DATED: August 30, 2023

Respectfully submitted,

24 ISMAIL J. RAMSEY
25 United States Attorney

26 /s/ Leif Dautch
27 LEIF DAUTCH
28 Assistant United States Attorney